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Written statement* submitted by the International Humanist and Ethical Union, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Female genital mutilation and the impermissibility of custom, tradition or religion as a means of defence

Three million girls are at risk of undergoing the procedure of female genital mutilation/cutting (FGM) every year[1]. FGM ranges from cutting off a girl's clitoris to cutting off all of her external genitalia and sealing the two sides, through stitching or natural fusion of scar tissue[2]. There are 140 million girls and women living with its consequences, which can include infections, complications in pregnancy and childbirth, psychological damage, and sexual dysfunction[3]. Countless girls have died as a direct result of infection following FGM, and many more as a result of later problems in pregnancy and childbirth. Whilst reported to occur in many areas of the world, FGM is most prevalent in the western, eastern, and north-eastern regions of Africa, and has also been reported in parts of the Middle East, Asia and within some immigrant communities in Europe and North America[4]. Communities that practice FGM report a variety of social and religious reasons for continuing with it.

The practice of FGM constitutes an extreme manifestation of discrimination against women; it is deeply rooted in inequality and should be perceived as a reflection of severe power imbalance. Entrenched in social, cultural and political structures, it perpetuates unequal normative gender roles that harm women[5]. As the World Health Organisation (WHO) and other international agencies have noted, FGM "deprives girls and women from making an independent decision about an intervention that has a lasting effect on their bodies and infringes on their autonomy and control over their lives"[6].

Turning upon the idea of the sexual control of women, there are understood to be a collection of interrelated reasons behind the practice of FGM. It is thought to restrain a woman's libido and prevent sexual behaviour that is considered deviant and immoral[7]. A girl's marriageability is key, with FGM deemed as representing the necessary characteristics required for a woman to become a "proper" wife[8]. The practice is seen as central to preserving a girl's honour and as a desirable proof of virginity, cleanliness and femininity, with removal of genitalia, such as the clitoris, understood to eliminate 'masculine' parts[9].

In certain communities, where mutilation is carried out as part of the initiation into adulthood, FGM defines who belongs to the community. In such communities, a girl cannot be considered an adult unless she has undergone FGM.

In many cases, it is a social convention and proves difficult for families to discontinue without support from the wider community. In places where there is a prevalence of FGM, anyone seeking to depart from the norm may face harassment, ostracism and condemnation. Often, the perceived social benefits of the procedure are viewed as trumping the infliction of harm upon girls[10]. Social acceptance of FGM, coupled with the lack of effective mechanisms to enforce

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[1] WHO, *Eliminating Female genital mutilation: An interagency statement* (OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO), 2008.

[2] UN OHCHR, *Fact Sheet No. 23, Harmful Traditional Practices Affecting the Health of Women and Children*, August 1995.

[3] WHO, *Female genital mutilation, Fact sheet No. 241*, Updated February 2014.
http://www.who.int/mediacentre/factsheets/fs241/en/

[4] UNICEF, *Female Genital Mutilation/Cutting*, 2009.

[5] WHO, 2008.

[6] Ibid.

[7] http://www.african-women.org/documents/behind-FGM-tradition.pdf

[8] WHO, 2008.

[9] Ibid.

[10] UNICEF, *Female genital mutilation/female genital cutting: a statistical report*, New York, 2005.

the existing prohibitions, have made the practice difficult to combat[11].

FGM is often upheld by a number of social forces with authority, such as traditional or religious leaders, elders, circumcisers and even some medical personnel[12]. Although the practice pre-dates Christianity and Islam, in some communities FGM has been upheld by beliefs associated with religion, and has acquired a religious dimension that is frequently cited as the reason for its use[13].

Many religious leaders support the practice tending to either consider it a religious act, or regarding efforts to eliminate the practice as constituting a threat to the preservation of culture and religion[14]. Other religious leaders have contributed to efforts to eliminate the practice. In November 2006, a conference held at Al-Azhar University, under the patronage of Sheikh Ali Goma'a, declared FGM as "punishable aggression" and "a crime against humanity"[15].

It should be noted that social and cultural claims cannot be invoked to justify FGM; as we know, freedom to manifest one's religion or beliefs is subject to limitations necessary to protect the fundamental rights and freedoms of others[16]. To be clear, FGM undermines the full and equal enjoyment of human rights by those women and girls forcibly subjected to it. When FGM is performed on minors, which is almost always the case, it constitutes a violation of the rights of the child, specifically the child's right to "enjoyment of the highest attainable standard of health", as laid down in article 24 of the Convention on the Rights of the Child[17]. The practice also violates the rights to health, security and physical integrity of the person. The UN Committee on torture has noted that FGM, "its form and cruelty amounts to torture and cruel, inhuman or degrading treatment or punishment as set forth in article 1 and 16 of the CAT"[18].

The African Union's Solemn Declaration on Gender Equality in Africa, and its Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa constitute a major contribution to the promotion of gender equality and the elimination of FGM. The negative implications of the practice in terms of human rights and public health have been recognised by a number of international organisations, such as the WHO, the United Nations Children's Fund and the United Nations Population Fund[19].

The UN's General Assembly resolution intensifying global efforts for the elimination of FGM in December 2012[20] was encouraging, but much more needs to be done. Whilst decades of preventative work, undertaken by local communities, national and international organizations and governments, has contributed to a reduction in the prevalence of FGM, progress has been slow and it is still prevalent in many areas across the world. Therefore, the UN Human Rights Council (UNHRC) needs to play a larger and more proactive role in the attempt to combat it. For instance,

– Where relevant, the UNHRC should encourage states to ratify, as a matter of priority, those international conventions pertaining to the rights undermined by the practice of FGM.

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[11] http://www.endfgm.eu/en/news-and-events/news/press-releases/legislation-against-fgm-not-sufficient-says-un-special-rapporteur-on-torture-0053/

[12] WHO, 2008.

[13] http://www.endfgm.eu/en/female-genital-mutilation/what-is-fgm/why-is-it-practised/

[14] See: WHO, 2008; http://www.endfgm.eu/en/female-genital-mutilation/what-is-fgm/why-is-it-practised/

[15] http://iheu.org/female-genital-mutilation/

[16] ICCPR, article 18.3; UNESCO, 2001, "UNESCO Universal Declaration on Cultural Diversity", article 4.

[17] http://www.ohchr.org/en/professionalinterest/pages/crc.aspx

[18] http://www.endfgm.eu/en/news-and-events/news/press-releases/legislation-against-fgm-not-sufficient-says-un-special-rapporteur-on-torture-0053/

[19] WHO, 2008.

[20] A/C.3/67/L.21/Rev.1*.

- It should remind states of their obligations to exercise due diligence to prevent, investigate and punish acts of violence against women, including FGM. States should ensure that those who have suffered torture or other cruel, inhuman or degrading treatment are granted compensation and any necessary rehabilitation services.

- As shown above, the factors involved in perpetuating FGM are complex and often grounded in social, cultural and traditional conventions supported and promoted by local communities. Accordingly, legal prohibition of FGM on its own will be insufficient. State laws and international regulations against the practice need to be complemented by education and public awareness-raising activities. Where this has happened, the practice has declined[21].

- Information campaigns must be implemented in order to educate and mobilize public opinion against FGM. In many European and North American states, lack of knowledge directly translates into an inability to combat FGM. Health and education practitioners, law enforcement agencies and the judiciary should be informed about the negative implications of FGM on the health, well-being and human rights of women and girls.

- Health and education practitioners should be bound to report cases they suspect or find evidence of FGM.

- More should be done at the international level to encourage exchange of information and good practices. States should collect and share data on the prevalence and trends of FGM.

- In light of the practice constituting either torture or other cruel, inhuman or degrading treatment, and given the often-transnational dimension of FGM, states should be encouraged to view the practice in the context of refugee status[22].

The difficulties for combatting FGM are immense, since the practice is deeply embedded in local culture throughout many parts of Africa and beyond. The solutions will necessarily involve a multi-targeted approach, including legal sanctions, awareness-raising and educational measures. What is clear however is that the practice forced upon girls works in diametric opposition to all understandings of human rights. It is essential to bear in mind that custom, tradition or religious considerations cannot be invoked by states to circumvent their obligations with respect to the elimination of FGM. Such considerations only act to perpetuate what is a deeply damaging and abusive practice against girls, and should never be accepted as a means of defending or promoting it.

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[21] Ibid.

[22] E.g. In the UK, see *Zainab Esther Fornah (Appellant) v. Secretary of State for the Home Departmen*, 14 June 2006. Similar approaches have been adopted in Austria, Belgium and Germany.